

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

S.M.,

Plaintiff,

v.

No. _____

BLOOMFIELD SCHOOL DISTRICT, a municipal corporation, BENJAMIN GRIFFITH, in his individual capacity, PRINCIPAL CHAD BURKHOLDER, in his official capacity, former PRINCIPAL CODY DIEHL, in his official capacity, SUPERINTENDENT JOE RASOR, in his official capacity,

Defendants.

NOTICE OF REMOVAL

Defendants Bloomfield School District, Chad Burkholder, Cody Diehl, and Joe Rasor, by and through undersigned counsel state:

1. Pursuant to 28 U.S.C. §§ 1331, 1441, 1443, and 1446, Defendants Bloomfield School District, Chad Burkholder, Cody Diehl, and Joe Rasor, herein exercise their right, with the written consent of all served Defendants, to remove this action from the Eleventh Judicial District Court, County of San Juan, where this case is now pending by the name and style of *S.M., Plaintiff v. Bloomfield School District, a municipal corporation, Benjamin Griffith, in his individual capacity, Principal Chad Burkholder, in his official capacity, former Principal Cody Diehl, in his official capacity, Superintendent Joe Rasor, in his official capacity, Defendants.* No. D-1116-CV-2016-00723. Plaintiff's actions arise, in part, out of alleged violations of Plaintiff's rights pursuant to 42 U.S.C. § 1983, Title IX, and the Fourteenth Amendment of the United States Constitution.

2. This Court has original jurisdiction as provided in 28 U.S.C. § 1331 in that the cause arises under the Constitution and law of the United States brought pursuant to 42 U.S.C.

§1983 or other applicable federal statutes. *See e.g.*, Complaint at First Cause of Action (Fourteenth Amendment Right to Bodily Integrity Against Defendant Griffith (42 U.S.C § 1983)), Second Cause of Action (Violation of S.M.’s right to equal protection of the law against Defendant Griffith (42 U.S.C. § 1983)), Fourth Cause of Action (Violation of the Due Process Right to Bodily Integrity Guaranteed by the Fourteenth Amendment of the United States Constitution against Defendant BSD, Defendant Burkholder, Defendant Diehl, and Defendant Rasor. (42 U.S.C § 1983)), Fifth Cause of Action (Violation of S.M.’s Right to Equal Protection under the Law against Defendant BSD, Defendant Burkholder, Defendant Diehl, and Defendant Rasor. (42 U.S.C. § 1983)), and Seventh Cause of Action (Sex Discrimination against Defendant BSD (Title IX)).

3. Further, the removing Defendants state that this Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1337, over the state law claims since said claims are so related to the federal law claims that they form part of the same case and controversy under Article III of the United States Constitution.

4. Defendant Benjamin Griffith was served on June 19, 2016. *See, Exhibit A* (Return of Summons Served to Benjamin Griffith).

5. Defendants Bloomfield School District, Chad Burkholder, and Cody Diehl were served on June 20, 2016. *See, Exhibit B* (Return of Summons Served to Bloomfield School District; Return of Summons Served to Chad Burkholder; Return of Summons Served to Cody Diehl).

6. On June 21, 2016, June 23, 2016, and June 24, 2016, service of the Summons and Complaint to Defendant Joe Rasor was attempted. *See, Exhibit C* (Summons to Joe Rasor and Certificate of Attempted Service).

7. On July 5, 2016, counsel for Defendant Joe Rasor accepted service of the Complaint. *See, Exhibit D* (Entry of Appearance and Acceptance of Service).

8. This Notice is filed within 30 days of service or attempted service on the removing Defendants.

9. The non-removing Defendant, Benjamin Griffith, consents to the removal of this action as shown by the attached consent signed by his counsel. *Exhibit E.*

10. Therefore, there is a unanimity of all Defendants consenting to this removal.

11. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal has been given to all adverse parties and an endorsed copy is filed with the Clerk of the Eleventh Judicial District Court, County of San Juan, State of New Mexico.

12. Defendants also attach a copy of the www.nmcourts.gov court docket as of July 15, 2016. *See, Exhibit F.* Pursuant to D.N.M. LR-Civ. 81.1(a), a certified copy of the State Court file will be filed with the Court within twenty-eight days after filing the Notice of Removal.

13. The Complaint served on the removing parties is attached as *Exhibit G.*

WHEREFORE, the removing Defendants respectfully request this Court to remove this action from the Eleventh Judicial District Court, County of San Juan, State of New Mexico to the United States District Court for the District of New Mexico.

Respectfully submitted,

NARVAEZ LAW FIRM, P.A.

/s/ *Henry F. Narvaez* _____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing Notice of Removal was served to the following counsel via First Class Mail this 15th of July, 2016:

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/s/ Henry F. Narvaez
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